

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

HSEIH *et al.*

Appl. No. 10/776,643

Filed: 12 February 2004

For: **BINDING PROTEINS AS
BIOSENSORS**

Art Unit: 1656

Examiner: DESAI, A.

Atty. Docket: P-5430P1

Confirmation No.:

Customer No.: 46851

RESPONSE TO ELECTION OF SPECIES

MAIL STOP AMENDMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

This communication is being submitted in response to the Office Communication of 17 March 2008, wherein the Examiner is requiring Applicants to elect a species for examination. Applicants elect a binding protein with at least two luminescent reporter groups conjugated thereto. Claims 78 and 79 read on the elected species. This election is made with traverse for the following reasons.

Applicants point out that the listed species in the March 17th communication are not necessarily mutually exclusive, as the Office alleges. Specifically, the Office alleges that a histidine tag, a reporter group and a luminescent group are mutually exclusive. Applicants point out that all three tags or groups may be present in a single embodiment, where the binding protein comprises a histidine tag (used for protein purification purposes) and one or more reporter groups, with one or more of the reporter groups being a luminescent label. Thus, a single embodiment of the present invention may comprise all three of the alleged mutually exclusive species. Applicants respectfully request reconsideration and withdrawal of the election of species requirement.

Applicants do not believe that any extensions of time are necessary to maintain the pendency of this application beyond what may be submitted herewith. If, however, any

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additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. §1.136(a), and any fees required, including fees for net addition of claims, are hereby authorized to be charged to Deposit Account No. 50-0310.

Should the Examiner believe that further discussion of any remaining issues would advance the prosecution, he or she is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date

19 May 2008

By

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